	Case 2:15-cv-00884-NVW Document 309 Filed 04/01/16 Page 1 of 20
1 2 3 4 5 6 7	IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA
8 9 10 11 12 13	Federal Trade Commission; all Fifty States; and the District of Columbia; Plaintiffs, vs.CASE NO. 2:15-cv-00884-NVWVs.ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AGAINST CANCER FUND OF AMERICA, INC., CANCER SUPPORT SERVICES, INC., AND JAMES REYNOLDS, SR.
14 15 16 17	Plaintiffs, the Federal Trade Commission ("FTC" or "Commission") and the states of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana,
18 19	Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North
20 21	Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West
22 23 24	Virginia, Wisconsin, Wyoming, and the District of Columbia have filed a complaint for a permanent injunction and other equitable relief against Defendants Cancer Fund of
24 25 26	America, Inc., also d/b/a Breast Cancer Financial Assistance Fund ("CFA"), Cancer Support Services, Inc. ("CSS"), Children's Cancer Fund of America, Inc. ("CCFOA"), and The Breast Cancer Society, Inc., also d/b/a The Breast Cancer Society of America
20 27 28	("BCS"), James Reynolds, Sr. ("Reynolds, Sr."), and other individuals, alleging that all named Defendants violated, among other statutes, the Federal Trade Commission Act, 15

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1	Arkansas:	ARK. CODE ANN. §§ 4-28-401 through 4-28-416; and §§ 4-88-101 through 4-88-115.
2	California:	CAL. GOV. CODE §§ 12580 through 12599.6; CAL. BUS. & PROF. CODE §§ 17200 through 17206; and §§ 17510 through 17510.95.
3	Colorado:	COLO. REV. STAT. §§ 6-1-101through 115; and 6-16-101 through 114.
4	Connecticut:	CONN. GEN. STAT. §§ 21a-175 through 21a-1901; and 42-110a
5	Delevierei	through 42-110q.
6	Delaware:	DEL. CODE ANN. tit. 6, § 2513(a) (1998); tit. 6, § 2532(a) (1995); and tit. 6, §§ 2595(a) – (b) (1995).
	Florida:	FLA. STAT. ch. 501, Part II; and ch. 496 (2013).
7	Georgia:	GA. CODE ANN. §§ 43-17-1 through 43-17-23 (2011).
8	Hawaii:	HAW. REV. STAT. §§ 467B-9.6, 467B-9.7(d), and 467B-10.5; 480-15; and Act 217 §2 Haw. Sess. Laws (2014).
9 10	Idaho:	IDAHO CODE ANN. §§ 48-601 through 619; and 48-1201 through 1206.
	Illinois:	225 ILL. COMP. STAT. §§ 460/0.01 through 460/23.
11	Indiana:	IND. CODE §§ 24-5-0.5-1 through -12; and §§ 23-7-8-1 through –9.
12	Iowa:	IOWA CODE § 714.16.
13	Kansas:	KAN. STAT. ANN. §§ 17-1759 through 17-1776.
15	Kentucky:	KY. REV. STAT. ANN. §§ 367.110 through 367.300.
14	Louisiana:	LA. REV. STAT. ANN. §§ 51:1401 through 1427; and 51:1901 through 1909.1.
15	Maine:	ME. REV. STAT. ANN. tit. 5, §§ 205-A through 214.
16	Maryland:	MD. CODE ANN., BUS. REG. §§ 6-101through 6-701 (2010).
17	Massachusetts:	MASS. GEN. LAWS ch. 12 §§ 8 through 8M, 10; ch. 68 §§ 18 through 35; and ch. 93A §§ 1 through 11.
18	Michigan:	MICH. COMP. LAWS §§ 400.271 through 400.294.
10	Minnesota:	MINN. STAT. ch. 309.
19	Mississippi:	MISS. CODE ANN. §§ 79-11-501 through 79-11-529.
20	Missouri:	MO. REV. STAT. ch. 407.
21	Montana:	MONT. CODE ANN. § 30-14-103.
22	Nebraska:	NEB. REV. STAT. §§ 21-1901 through 21-19,177; 59-1601 through 59-1622; and 87-301 through 87-306.
23	Nevada:	NEV. REV. STAT. §§ 598.1305, 598.0915(15), 598.096, 598.0963, and 598.097.
24	New Hampshire:	N.H. REV. STAT. ANN. §§ 7:19; 7:20; 7:21; 7:24; 7:28; 7:28-c; 7:28-f; and 641:8.
25	New Jersey:	N.J. STAT. ANN. §§ 45:17A-18 through 45:17A-32(c); 56:8-1
26		through 56:8-20; and N.J. ADMIN. CODE §§ 13:48-1.1 through 13:48-15.1.
27	New Mexico:	N.M. STAT. §§ 57-12-1through 57-12-22; and §§ 57-22-1through 57-

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1	New York:	N.Y. EXEC. LAW §§ 63 (12); 171-a through 175; and N.Y. GEN. BUS.
		LAW § 349.
2	North Carolina: North Dakota:	N.C. GEN. STAT. ANN. §§ 75-1.1; and 131F. N.D. CENT. CODE §§ 50-22-01 through 50-22-07; and 51-15-01
3		through 51-15-11.
4	Ohio:	Ohio Rev. Code Ann. § 1716.
5	Oklahoma:	OKLA. STAT. ANN. tit. 18 §§ 552.1 through 552.22.
	Oregon:	OR. REV. STAT. §§ 128.886; and 646.605 through 646.636.
6	Pennsylvania:	10 PA. STAT. ANN. §§ 162.1 through .14 (1990).
7	Rhode Island: South Carolina:	R.I. GEN. LAWS §§ 5-53.1-1 through 5-53.1-18.
8	South Dakota:	S.C. CODE ANN. §§ 33-56-10 through 33-56-200. S.D. CODIFIED LAWS §§ 37-30-17 through 37-30-21; and 21-34-1
	South Dakota.	through 21-34-14.
9	Tennessee:	TENN. CODE ANN. §§ 48-101-501 through 48-101-522.
10	Texas:	TEX. BUS. & COM. CODE ANN. §§17.41 through 17.63.
11	Utah:	UTAH CODE ANN. §§ 13-11-1 through 13-11-23; 13-22-1 through 13-
		22-23; and 13-26-1 through 13-26-11.
12	Vermont: Virginia:	VT. STAT. ANN. tit. 9 §§ 2453 through 2461; and 2471 through 2479.
13	Washington:	VA. CODE ANN. §§ 57-48 through 57-69. WASH. REV. CODE §§ 19.86; and §19.09.
14	West Virginia:	WIMIN REV. CODE §§ 19:00, and \$19:09. W.VA. CODE §§ 29-19-1 -15b; and 46A-1-101through 46a-6-110.
	Wisconsin:	WIS. STAT. §§ 202.11-202.18.
15	Wyoming:	WYO. STAT. ANN. §§ 40-12-101 through 114.
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17		endants CFA, CSS, and Reynolds, Sr. neither admit nor deny any of the
18	allegations in the	Complaint, except as specifically stated in this Order. Only for
19	purposes of this a	ction, these Defendants admit the facts necessary to establish
20	jurisdiction.	
21	5. Defe	endants CFA, CSS, and Reynolds, Sr. waive any claim that they may
22	have under the Eq	ual Access to Justice Act, 28 U.S.C. § 2412, concerning the
23	prosecution of this	s action through the date of this Order, and agree to bear their own costs
24	and attorney fees.	
25	6. Defe	endants CFA, CSS, and Reynolds, Sr. waive all rights to appeal or
26	otherwise challen	ge or contest the validity of this Order.
27	7. Entr	ry of this Order is in the public interest.
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1	DEFINITIONS	
2	For purposes of this Order, the following definitions shall apply:	
3	1. "Defendants" means the individual defendant James Reynolds, Sr. and the	
4	corporate defendants Cancer Fund of America, Inc., and Cancer Support Services, Inc.,	
5	individually, collectively, or in any combination.	
6	2. "CFA" means Cancer Fund of America, Inc., also d/b/a Breast Cancer	
7	Financial Assistance Fund, and its successors and assigns.	
8	3. "CSS" means Cancer Support Services, Inc., and its successors and assigns.	
9	4. "Reynolds, Sr." means individual defendant James Reynolds, Sr.	
10	5. "CFA and CSS Receivership Order" means the "Stipulated Order	
11	Appointing Liquidating Receiver Over Cancer Fund of America, Inc., and Cancer	
12	Support Services, Inc."	
13	6. "CFA and CSS Receiver" or "Receiver" means the receiver appointed over	
14	the CFA and CSS receivership estate by the CFA and CSS Receivership Order.	
15	7. "Person" means a natural person, an organization or other legal entity,	
16	including a corporation, partnership, sole proprietorship, limited liability company,	
17	association, cooperative, or any other group or combination acting as an entity.	
18	8. "Charitable contribution" means any donation or gift of money or any other	
19	thing of value.	
20	9. "Donor" or "consumer" means any person solicited to make a charitable	
21	contribution.	
22	10. "Fundraising" means a plan, program, or campaign that is conducted to	
23	induce charitable contributions by mail, telephone, electronic mail, social media, or any	
24	other means.	
25	11. "Nonprofit organization" means any person that is, or is represented to be, a	
26	nonprofit entity, or that has, or is represented to have, a charitable purpose, specifically	
27	including but not limited to any such entity that purports to benefit, either in whole or in	
28	part, individuals who suffer or have suffered from cancer.	

1	12. "Plaintiff States" means the states of Alabama, Alaska, Arizona, Arkansas,
2	California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois,
3	Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts,
4	Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New
5	Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio,
6	Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota,
7	Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin,
8	Wyoming, and the District of Columbia. For purposes of Section VIII, below, the term
9	"Plaintiff States" does not include Minnesota.
10	13. "Solicitor" means any person who solicits a charitable contribution.
11	14. "Telemarketing" means a plan, program, or campaign that is conducted to
12	induce the purchase of goods or services or a charitable contribution, by use of one or
13	more telephones and that involves a telephone call, whether or not covered by the
14	Telemarketing Sales Rule.
15	15. "And" and "or" shall be construed both conjunctively and disjunctively to
16	make the applicable sentence or phrase inclusive rather than exclusive.
17	ORDER
18	I. CORPORATE DISSOLUTION
19	IT IS FURTHER ORDERED that, pursuant to the CFA and CSS Receivership
20	Order of which CFA and CSS have consented to entry, the CFA and CSS Receiver shall
21	take the steps necessary to cause CFA and CSS to be dissolved and to cease to exist as
22	corporate entities.
23	II. PROHIBITIONS RELATED TO CHARITABLE ACTIVITIES
24	IT IS FURTHER ORDERED that Reynolds, Sr. is permanently restrained and
25	enjoined from engaging in the following activities individually or in concert with other
26	persons or entities, directly or indirectly:
27	A. Receiving any payment or other financial benefit for: (1) participating or
28	assisting in the solicitation of charitable contributions, directly or indirectly, including by

1	advising, acting as an independent contractor or as a fundraising consultant, supplying		
2	contact or donor lists, or providing caging, mail processing, or fulfillment services, or		
3	(2) controlling, directly or indirectly, or holding an ownership interest in, any entity		
4	engaged in the business of fundraising;		
5	B. Receiving any payment or other financial benefit from any nonprofit		
6	organization or other entity th		
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1	IV. TELEMARKETING SALES RULE COMPLIANCE	
2	IT IS FURTHER ORDERED that Reynolds, Sr., CFA, CSS, their respective	
3	officers, agents, employees, and independent contractors, and all other persons in active	
4	concert or participation with them who receive actual notice of this Order, whether acting	
5	directly or indirectly, are hereby permanently restrained and enjoined from violating, or	
6	assisting others in violating, any provision of the TSR, 16 C.F.R. Part 310, as currently	
7	promulgated or as it hereafter may be amended.	
8	V. COMPLIANCE WITH STATE LAW	
9	joined from violating, or	
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	Virginia:	VA. CODE ANN. §§ 57-48 through 57-69.
1	Washington:	WASH. REV. CODE §§ 19.86; and §19.09.
2	West Virginia:	W.VA. CODE §§ 29-19-1 -15b; and 46A-1-101through 46a-6-110.
3	Wisconsin:	WIS. STAT. §§ 202.11-202.18.
	Wyoming:	WYO. STAT. ANN. §§ 40-12-101 through 114.
4 5		VI. COOPERATION
6	IT IS FUR	THER ORDERED that CFA, CSS, and Reynolds, Sr. must cooperate
7	fully with Plaintif	ffs' representatives in this case and in any investigation related to or
8	associated with th	ne transactions or the occurrences that are the subject of the Complaint.
9	CFA, CSS, and R	Reynolds, Sr. must provide truthful and complete information, evidence,
10	and testimony. R	Reynolds, Sr. must appear, and CFA and CSS must cause their officers,
11	employees, repres	sentatives, or agents to appear for interviews, discovery, hearings, trials,
12	and any other pro	ceedings that any Plaintiff's representative may reasonably request
13	upon five days w	ritten notice, or other reasonab
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forever waive, release, discharge, and disclaim all right, title, and interest in the boat.

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3. Further execution of the monetary judgment shall be suspended as to Reynolds, Sr., subject to Sections VII.C.4-5, below. Plaintiffs' agreement to the suspension of the judgment owed by Reynolds, Sr. is expressly premised upon the truthfulness, accuracy, and completeness of Reynolds, Sr.'s sworn financial statements and related documents submitted to Plaintiffs, namely, the Financial Statement of Individual, signed on June 26, 2015 (including attachments), additional financial information provided on June 30, 2015; July 15, 2015; August 14, 2015; September 17 - 21, 2015; January 22, 2016, and February 2, 2016; and the sworn financial interview of Reynolds, Sr. on September 15, 2015. 4. The suspension of the judgment will be lifted as to Reynolds, Sr. if, upon motion by any Plaintiff, the Court finds that Reynolds, Sr. failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the representations made in the sworn financial statements and related documents identified Section VII.C.3, above. If the suspension of the judgment is lifted pursuant to this provision, the judgment

becomes immediately due in the amount specified in Section VII.A above as to Reynolds, Sr. (which the Parties stipulate for purposes only of this Section represents the consumer injury alleged in the Complaint for which Reynolds, Sr. is jointly and severally liable with CFA and CSS), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

5. The suspension of the judgment will be lifted as to Reynolds, Sr. if, upon motion by any Plaintiff State, the Court finds that Reynolds, Sr. has violated any provision of Section II, above, and a judgment in the amount set forth in Section VII.A above, less any prior payments by

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moving Plaintiff State, which shall use any money collected pursuant to the 1 2 requirements of Section VIII.E.2, below. VIII. **ADDITIONAL MONETARY PROVISIONS** 3 IT IS FURTHER ORDERED that: 4 A. CFA, CSS, and Reynolds, Sr. relinquish dominion and all legal and 5 6 equitable right, title, and interest in all assets transferred pursuant to this Order and the 7 CFA and CSS Receivership Order, and may not seek the return of any assets; B. The facts alleged in the Complaint will be taken as true, without further 8 proof, in any subsequent civil litigation by or on behalf of the Plaintiffs or the CFA and 9 CSS Receiver, including in a proceeding to enforce their rights to any payment or 10 11 monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case; 12 C. The facts alleged in the Complaint establish all elements necessary to 13 sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 14 15 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such 16 purposes; D. CFA, CSS, and Reynolds, Sr. acknowledge that their Taxpayer 17 18 Identification Numbers, Social Security Numbers and/or Employer Identification 19 Numbers, which Defendants previously submitted to Plaintiffs, may be used for 20 collecting and reporting on any delinquent amount arising out of this Order, in 21 accordance with 31 U.S.C. § 7701; and E. 22 Payment to the Plaintiff States: 1. All money paid to the Plaintiff States pursuant to this Order shall be 23 24 made by wire transfer to the Litigation Deposits Trust Fund (Fund Code "T-xx-909N"), 25 an interest bearing trust fund held by the Hawaii Attorney General's Office in trust for 26 the Plaintiff States ("the short-term court ordered trust fund" or "STCO Fund"); 2. 27 The STCO Fund shall be used to pay: (a) pursuant to cy pres, 28 qualifying charitable organizations with charitable purposes substantially similar to the

1	purposes for which CFA and CSS solicited funds, and (b) the Plaintiff States to reimburse
2	costs of the investigation and litigation and to pay attorneys' fees. When payment(s)
3	from the STCO Fund are appropriate, the Plaintiff States shall submit to this Court a
4	Motion and Proposed Order recommending cy pres recipients and the amounts to be paid
5	to such recipients and/or the amounts to be paid to reimburse the Plaintiff States for their
6	costs and attorneys' fees. The Hawaii Attorney General shall distribute monies from the
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1 2 3 4	X. COMPLIANCE REPORTING IT IS FURTHER ORDERED that Reynolds, Sr. make timely submissions to Plaintiff Federal Trade Commission.
3	Plaintiff Federal Trade Commission.
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	A. One year after entry of this Order, Reynolds, Sr. must submit a compliance
5	report, sworn under penalty of perjury. Reynolds, Sr. must:
6	1. Identify all his telephone numbers and all physical, postal, email and
7	Internet addresses, including all residences;
8	2. Identify all his business activities, including any business for which
9	he performs services whether as an employee or otherwise and any entity in which
10	he has any ownership interest;
11	3. Describe in detail his involvement in each such business, including
12	title, role, responsibilities, participation, authority, control, and any ownership;
13	4. Identify all such businesses by all of their names, telephone
14	numbers, and physical, postal, email, and Internet addresses;
15	5. Describe the activities of each business, including the goods and
16	services offered, the means of advertising, marketing, sales, methods of payment,
17	and the involvement of any other Defendant named in this matter (which
18	Reynolds, Sr. must describe if he knows or should know due to his own
19	involvement);
20	6. Identify the primary physical, postal, and email address and
21	telephone number, as designated points of contact, which Plaintiffs or their
22	representatives may use to communicate with him;
23	7. For any activity with any nonprofit organization:
24	a. identify each such nonprofit organization by all of its names,
25	telephone number[s], and physical, postal, email, and Internet addresses;
26	and
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1	b. describe in detail his involvement in each such nonprofit
2	organization, including any title, role, responsibilities, participation, 9
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foregoing is true and correct. Executed on [date] at [location]" and supplying the date, 1 2 location, signatory's full name, title (if applicable), and signature. E. Unless otherwise directed by a Commission representative in writing, all 3 submissions to Plaintiff Federal Trade Commission pursuant to this Order must be 4 emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: 5 Associate Director for Enforcement, 6 Bureau of Consumer Protection. 7 Federal Trade Commission, 600 Pennsylvania Avenue NW, 8 Washington, DC 20580 9 The subject line of each submission must begin: FTC v. Cancer Fund of America, et al. 10 XI. RECORDKEEPING 11 IT IS FURTHER ORDERED that Reynolds, Sr. must create certain records for ten 12 years after entry of this Order, and retain each such record for five years. Specifically, 13 for any business that he, individually or collectively with any other Defendant named in 14 this matter, is a majority owner or controls directly or indirectly, he must create and 15 retain the following records: 16 A. Accounting records showing revenues from all goods or services sold or 17 billed; 18 Β. Personnel records showing, for each person providing services, whether as 19 an employee or otherwise, that person's name; address; telephone number; job title or 20 position; dates of service; and reason for termination (if applicable); 21 C. Records of all consumer complaints, whether received directly or indirectly, 22 such as through a third party, and any response; 23 D. All records necessary to demonstrate full compliance with each provision 24 of this Order, including all submissions to Plaintiff Federal Trade Commission; and 25 E. A copy of each unique advertisement or other marketing material. 26 27 28

1	XII. COMPLIANCE MONITORING
2	IT IS FURTHER ORDERED that, for purposes of monitoring Reynolds, Sr.'s
3	compliance with this Order, including the accuracy of the financial representations upon
4	which the judgment was suspended:
5	A. Within 14 days of receipt of a written request from a representative of any
6	Plaintiff, Reynolds, Sr. must submit additional compliance reports or other requested
7	information, which must be sworn under penalty of perjury; appear for depositions; and
8	produce documents for inspection and copying. Plaintiffs are also authorized to obtain
9	discovery, without further leave of court, using any of the procedures prescribed by
10	Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34,
11	36, 45, and 69.
12	B. For matters concerning this Order, Plaintiffs are authorized to communicate
13	directly with Reynolds, Sr. Reynolds, Sr. must permit representatives of any Plaintiff to

- Plaintiff to 13 interview any employee or other person affiliated with him who has agreed to such an 14 interview. The person interviewed may have counsel present. 15
- C. 16 Plaintiffs may use all other lawful means, including posing, through their representatives, as consumers, suppliers, or other individuals or entities, to Reynolds, Sr. 17 18 or any individual or entity affiliated with him, without the necessity of identification or 19 prior notice. Nothing in this Order limits Plaintiff Federal Trade Commission's lawful 20 use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. 21 §§ 49, 57b-1, or the Plaintiff States' lawful use of relevant state laws governing pre-suit 22 investigation and discovery.
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D. Upon written request from a representative of the Commission or any 24 Plaintiff State, any consumer reporting agency must furnish a consumer report concerning Reynolds, Sr. pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 25 26 U.S.C. §1681b(a)(1).

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1	XIII. RETENTION OF JURISDICTION
2	IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for
3	purposes of construction, modification, and enforcement of this Order.
4	XIV. STATE COURT ENFORCEMENT
5	Without limiting the above provisions, CFA, CSS, and Reynolds, Sr. agree that the
6	provisions of Sections II, III, and V of this Order may be enforced by any Plaintiff State
7	in a court of general jurisdiction in that Plaintiff's state if that Plaintiff State has reason to
8	believe that persons in its state have been affected. Defendants CFA, CSS, and Reynolds,
9	Sr. consent to any such court's jurisdiction for purposes of enforcing the terms of
10	Sections II, III, and V of this Order.
11	Dated this 1st day of April, 2016.
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